

Virginia Land Conservation Foundation Board of Trustees

November 29, 2007

Dorey Recreational Park, Richmond, Virginia

Virginia Land Conservation Foundation Board of Trustees Members Present

The Honorable L. Preston Bryant, Jr. Secretary of Natural Resources, Chair

The Honorable Robert S. Bloxom

Joseph H. Maroon, Executive Secretary

Senator Patricia Ticer, Vice Chair

R. Brian Ball

Margaret Davis

Wendell P. Ennis

Albert C. Weed, II

Senator R. Creigh Deeds

Alexandra Liddy Bourne

William C. Dickinson

L. Clifford Schroeder, Sr.

Bonnie Moorman

Virginia Land Conservation Foundation Board of Trustees Members Not Present

Nancy T. Bowles

Leah Fried

Mary Bruce Glaize

Albert Essel

Lou Giusto

Thomas B. Graham

Agency Staff Present

Nicole M. Rovner, Deputy Secretary of Natural Resources

David C. Dowling, Department of Conservation and Recreation

Sarah Richardson, Department of Conservation and Recreation

Jason Bulluck, Department of Conservation and Recreation

Michael R. Fletcher, Department of Conservation and Recreation

Jeremy Stone, Department of Conservation and Recreation

James Adams, Department of Game and Inland Fisheries

Deb Van Duzee, Department of Game and Inland Fisheries

Elizabeth TuneTune, Department of Historic Resources

Robins Buck, Department of Agriculture and Consumer Services

Kevin Schmidt, Department of Agriculture and Consumer Services

Dean Cumbia, Department of Forestry

Rob Farrell, Department of Forestry

Bob Lee, Virginia Outdoors Foundation

Others Present

Phil Hocker, Virginia Conservation Credit Pool, LLC

Heather Richards, Piedmont Environmental Council

Call to Order

Secretary Bryant called the meeting to order and welcomed Board members and attendees.

Because of a schedule conflict, Secretary Bryant said immediately following the report of the Executive Secretary the Board would first address the Update on Land Preservation Tax Credits, listed as item #7 on the published agenda.

Approval of Minutes from June 13, 2007

MOTION: Mr. Ball moved that the minutes of the June 13, 2007 meeting of the Virginia Land Conservation Foundation Board of Trustees be approved as submitted.

SECOND: Mr. Dickinson

DISCUSSION: None

VOTE: Motion carried unanimously

Executive Secretary's Report

Mr. Maroon referenced two memos that had recently been sent to the Board regarding the goal of preserving 20% of Chesapeake Bay and Open Space land by 2010. Mr. Maroon said an error occurred in 2000 when the goal was initiated. In developing the base line information, some files included land that are actually part of West Virginia.

Mr. Dickinson asked if West Virginia included those 116,000 acres on their contributions.

Mr. Maroon noted that West Virginia is not a principal signatory of the Chesapeake Bay 2000 Agreement.

Mr. Maroon said that this information would not affect the Governor's goal of preserving an additional 400,000 acres as the accounting for that began with his term.

Mr. Dickinson said that it was not clear if military installations were being counted as preserved lands.

Mr. Maroon said that DCR had extensive conversations with the Department of Defense and that Virginia is the only state in the Bay watershed to include DOD lands protected in the totals. However, he noted that DOD lands are never permanently conserved. He said that, based on the military situation, there could be land on a base now considered open space that might be used for training purposes.

Mr. Maroon noted that members had a map of the acres of protected land in their meeting packets. A copy of this map is available from DCR.

Ms. Rovner asked if this information had been sent to localities.

Mr. Maroon said that the information would be shared with the Virginia Association of Counties (VACO) and the Virginia Municipal League (VML).

Mr. Maroon noted that the map highlights the fact that little land has been preserved in the southern central portion of the state. He said that the Governor would be holding a land conservation conference in South Boston on December 11th. A copy of the invitation was provided in member packets.

Mr. Dickinson said that Prince William County has about 3,500 acres that is owned and operated by the Prince William Park Authority. However, with the easements, battlefields, military and special use lands the County is listed as having 50,000 acres of preserved lands. He said that the concern is that the County not see a need to preserve additional lands even though the public does not have access to all 50,000 acres.

Ms. Bourne said that it is important to have transparency in the numbers to allow the public to make better decisions.

Mr. Maroon reviewed the following yearly land preservation tax transaction comparison.

| Year | # donations | # of acres conserved | Credit dollars |
|------|-------------|----------------------|----------------|
| 2005 | 11 | 1,622 | \$5.7 M |
| 2006 | 32 | 4,777 | \$21.2 M |
| 2007 | 53 | 10,315 | \$14.8 M |

Update on Land Preservation Tax Credits

Mr. Stone gave the following update on Land Preservation Tax Credits.

Report to the Virginia Land Conservation Foundation
On Land Preservation Tax Credit Applications Received by
The Department of Conservation and Recreation
As of 11/28/2007

- The Department of Conservation and Recreation (DCR) has received one final application claiming \$1 million or more in Land Preservation Tax Credits.
 - DCR received the application on October 12, 2007 and acted on it, by verifying its conservation value to the Department of Taxation, on October 22, 2007.
- DCR has received eleven pre-filing applications.

- Of those eleven, the land conservation analyst has provided a comment letter on five.
 - The average time from receipt of a complete pre-filing application to the issuance of a comment letter is 42 days and we are working to reduce this turn around time.
- For tracking and reporting purposes, DCR receives all applications regardless of credit value claimed on the application.
 - DCR has received 49 applications claiming tax credits within 27 counties.

| Locality | Acres | Credit Value Claimed |
|-----------------------|------------------|-----------------------------|
| Accomack County | 68 | 298,800.00 |
| Albemarle County | 315.75 | 718,640.00 |
| Amherst County | 204 | 128,200.00 |
| Augusta County | 358 | 380,800.00 |
| Bath County | 189 | 430,000.00 |
| Clarke County | 92.55 | 226,000.00 |
| Culpeper County | 784 | 1,219,830.00 |
| Fauquier County | 1146.28 | 2,500,000.00 |
| Franklin County | 1004.54 | 370,000.00 |
| Frederick County | 209 | 677,200.00 |
| Giles County | 351 | 140,800.00 |
| Goochland County | 57 | 246,800.00 |
| Highland County | 205 | 82,200.00 |
| Louisa County | 998 | 97,500.00 |
| Madison County | 139 | 318,480.00 |
| Middlesex County | 399 | 1,472,800.00 |
| Nelson County | 104 | 88,000.00 |
| Northumberland County | 127 | 350,800.00 |
| Orange County | 200 | 255,369.00 |
| Patrick County | 93 | 33,200.00 |
| Rappahannock County | 400 | 860,200.00 |
| Roanoke County | 131 | 996,400.00 |
| Rockbridge County | 1608 | 1,965,600.00 |
| Rockingham City | 100 | 48,000.00 |
| Shenandoah County | 72.617 | 101,800.00 |
| Warren County | 221 | 135,250.00 |
| Wythe County | 738.4 | 651,400.00 |
| Total: | 10315.137 | 14,794.069.00 |

Secretary Bryant asked what was involved in the comment letter.

Mr. Stone said the comment letter is a statement back to the applicant outlining what DCR would like to see included. There have been letters that indicate no changes are needed. Sometimes the changes are optional.

Mr. Maroon asked if a site visit was incorporated into the review process.

Mr. Stone said that all eleven applications have been visited as well as three additional site visits.

Mr. Stone said that for tracking purposes, DCR receives all of the applications.

Mr. Maroon said that concern had been expressed that DCR was holding up the process or applications, but that he wanted to assure the Board that staff, particularly Mr. Stone, has been diligent in moving the applications along.

Mr. Stone said there had been some confusion over the area of buffers. He said the applicants need to qualify under one area, not all categories or in multiple categories to receive the credit. He said that the applicants determine the category for the claim.

Mr. Maroon noted that this was the first time out with this program. He said that with regard to the 35 ft. buffer that was not an onerous requirement for a million dollars of tax credit. He said that requirements could be changed by the Board, but not by DCR.

Senator Deeds said that the concern may be a matter of perception and that applicants were unaware of the separate criteria.

Mr. Weed said that he recalled the discussion regarding buffers to be contentious. He said that affects? the perception of how much land is being preserved and what the landowner can do with the land.

He said that there were lot of things appropriate in buffer areas that farms may not be aware they can do and that it might be worthwhile to review this information.

Mr. Schroeder said that when he served as chair of the Chesapeake Bay Local Assistance Board he thought that a 35 ft. buffer was a modest requirement.

Ms. Bourne said the issue addresses more a lack of education in the community. She said a better job could be done on the education side. She said that she would be hesitant to make major changes without having time to see the effects of the current plan.

Mr. Maroon agreed that additional data would be helpful.

Mr. Maroon asked Board members to address concerns to his attention or to Mr. Stone.

Mr. Hocker from the Department of Taxation said that he had worked with Delegate Howell to propose the idea of transferability.

He said that the question that remains is what qualifies a donation and what constitutes the basis for credit. He said that the federal rules are well known and provide landowners with a certain comfort level. He noted that Virginia added a layer of additional restrictions.

Mr. Hocker said that for the current year the Department of Taxation had received 54 applications totaling 10,500 acres and \$15,200,000 in credit.

Mr. Hocker said that both the agencies and applicants are on a learning curve and that the actual form intimidates people. He said he would recommend that the Board and the Departments monitor the program but that it may be premature to make a judgment call.

Mr. Hocker said that DCR and Taxation have worked cooperatively. He said that the market had been interesting and had moved up this year.

Ms. Richards from the Piedmont Environmental Council said that she wanted to bring before the Board comments from landowners and attorneys. She said that several attorneys have recommended that landowners not apply for the credit. She said on the buffer issue, most farmers recognize that buffers and fencing are good for their operation. However there is a concern that in the future, their descendants may not have the resources to maintain the buffer.

Ms. Richards said that PEC was not ready to offer a solution, but noted that it was important to hear the concerns being expressed.

Mr. Hocker said that the number of applications reflects those concerns. However, he said that Taxation had worked hard with DCR to develop a pre-application process so that the landowner may view a proposed easement without having to make the irrevocable deed commitment.

Mr. Stone said that applicants could come to DCR with questions regarding specific issues.

Mr. Maroon said that DCR would be glad to meet with the attorneys to answer to foster a better understanding.

Ms. Richards said that PEC provided training but that questions were generated from the training. She said that it was not the recommendation of the PEC to stop the process.

Ms. Bourne said that when the agency started with the water quality programs it took a couple of years before the community felt comfortable with the new program. She said that the outreach would be beneficial. She said that the drop in the housing market might also affect these applications.

Discussion of Proposed Revisions to Grant Manual and Scoring Criteria

Mr. Ball said that, at the request of the Board the subcommittee had reviewed the grant manual and scoring criteria. He said that Ms. Richardson would walk the Board through the recommended changes. A copy of the DRAFT grant manual as presented is available from DCR.

Mr. Dickinson asked if the Potomac River would be considered state waters.

Ms. Richardson said that in this context the Potomac River would qualify to give applicants credit for state waters.

Ms. Bourne said that under the Chesapeake Bay Act it was very difficult to provide access to the Potomac, particularly with regard to building structures such as piers. She said that might pose difficulties for localities.

Ms. Richardson said that public access also includes fishing and swimming from the bank. She said that for the scoring purposes, the criteria looked at the connecting intersection between the water and the land.

Mr. Dickinson said there are very few places along the Potomac River that provide access.

Mr. Ball said the issue was not unique to the Potomac.

Mr. Dickinson suggested that instead of park systems, the term park be used.

Ms. Bourne asked for a definition of blueway.

Ms. Richardson said a blueway is essentially a water trail and would include places along the water where boaters, canoers or others could put in or out.

It was noted there is a difference between one day a year use and use throughout a season.

Ms. Richardson said that points were graduated based on days of usage.

Ms. Bourne suggested additional points if the property is open in a particular season, but not all year long.

Mr. Ball said the season is defined by DGIF and that the criteria are more focused on access.

Ms. Richardson said the consideration was the frequency of public use.

Ms. Richardson said that, per the discussion of the subcommittee, that staff would work with item #7 under the Open Space and Parks Category. She said the two concerns relate to land that is densely populated as well as to land that is rapidly developing.

Ms. Richardson said there were no recommended changes in the Natural Areas category.

Ms. TuneTune from Historic Resources said that the efforts were to provide greater definition and predictability with different properties. She said that because many battlefields are not listed in the VLR or National Register there is a separate point system.

Mr. Dickinson said that everything should not be skewed towards the Civil War.

Ms. Bourne asked why there was a need for financial documentation.

Ms. TuneTune said that the intent was to have assurance that the landowner is serious about the nature of preservation and accuracy.

Mr. Ball said that the applicants are entities and not individuals. This would not be asking for someone's personal financial statement.

Mr. Ball said that the committee was asking for approval to rewrite a handful of changes:

- In Appendix one, strike "park systems" and replace with "parks"
- In public utilization, include additional graduated scoring
- On page 29, the language to create the necessary changes to item 7 dealing with Densely Populated and Developing Areas

Mr. Ball said that if the Board would approve those, he would like to ask the members of the subcommittee to vote to move the document forward.

MOTION: Mr. Ennis moved that the Subcommittee of the Board recommend that the Board adopt the revisions to the Grants Manual as submitted.

SECOND: Ms. Bourne

DISCUSSION: None

VOTE: Motion carried unanimously among the members of the subcommittee

Secretary Bryant said that the issue of the grants manual was now before the full Board.

MOTION: Ms. Moorman moved that the Virginia Land Conservation Foundation Board of Trustees approve the revisions to the Grants Manual as proposed by the subcommittee.

SECOND: Senator Ticer

DISCUSSION: None

VOTE: Motion carried unanimously

Secretary Bryant thanked the members of the subcommittee and representative staff from agencies involved.

At this time the Board recessed for lunch.

Board Consideration of Requests for Grant Extensions

Ms. Richardson reviewed the requests for grant extensions.

Ms. Bourne expressed a concern regarding the extension for the Northern Virginia Conservation Trust for the Crow's Nest property. She said that she was concerned that \$500,000 would be on hold for two years and requested that staff and the Board be updated on the progress.

Ms. Richardson said that DCR requires regular updates.

Secretary Bryant said that Crow's Nest is a very worthy project. He said concerns had been expressed about the use of eminent domain.

Ms. Richardson said that the County was trying to move ahead to settle the transaction without condemnation of the property.

MOTION: Mr. Ball moved that the Virginia Land Conservation Foundation approve the grant extensions as listed:

Shenandoah Valley Battlefields Foundation Request for Grant Extension

The Shenandoah Valley Battlefields Foundation requests an extension of six months for the Cedar Creek Bluff project. VLCF awarded a \$244,793 grant in Fiscal Year 2005 for an easement on 117 acres in Shenandoah County. The original deadline for this project was November 4, 2007. The recommendation is that the

VLCF Board approve an extension until May 4, 2008 for the Cedar Creek Bluff project.

Virginia Outdoors Foundation Request for Grant Extension

The Virginia Outdoors Foundation requests an extension for the Port Tobacco project. VLCF awarded a \$258,000 grant in Fiscal Year 2005 for an easement on approximately 1,800 acres in Essex County. The original deadline for this project was August 11, 2007. The recommendation is that the VLCF Board approve an extension until May 11, 2008 for the Port Tobacco project.

Northern Virginia Conservation Trust Request for Grant Extension

The Northern Virginia Conservation Trust requests an extension for the Crow's Nest project until January 30, 2010. VLCF awarded a \$500,000 grant in Fiscal Year 2006 for acquisition of approximately 1,800 acres in Stafford County. The original deadline for the project is January 30, 2008. The recommendation is that the VLCF Board approve an extension until January 30, 2010 for the Crow's Nest project.

Department of Forestry Request for Grant Extension

The Department of Forestry requests an extension of six months for the Brumley Mountain project. VLCF awarded a \$1.2 million grant in Fiscal Year 2006 for acquisition of approximately 1,600 acres in Washington County. The original deadline for the project is January 24, 2008. The recommendation is that the VLCF Board approve an extension until June 24, 2008 for the Brumley Mountain project.

SECOND Mr. Ennis

DISCUSSION: None

VOTE: Motion carried unanimously

Discussion of Funding Options and Awareness Building for VLCF

Analysis of Costs to Meet Governor's 400,000-Acre Goal

Mr. Dowling said that staff was attempting to provide an update of progress towards the goal and not what the shortfalls might be.

Mr. Dowling reviewed the Annual Protection Trends Estimates as of June 30, 2007:

| Year | Statewide (acreage) |
|-------------------------------------|---------------------|
| 2001 | 54,887.63 |
| 2002 | 48,858.16 |
| 2003 | 51,569.21 |
| 2004 | 56,514.81 |
| 2005 | 59,685.71 |
| 2006 | 65,849.38 |
| 2007 | 93,526.44 |
| Total | 430,900.64 |
| Average Annual Acreage Protected | 61,557.23 |

As of June 20, 2007 = 240,614.88 acres left to go.

$61,557.23 * 2.5 = 153,893.08$ (acres we should be able to protect in 2.5 year with status quo.)

$240,614.88 - 153,893.08 = 86,721.8$ acres we need to fund

Cost Range (VLCF):

If funds were set-aside for acquisition of large blocks of land, at a purchase rate of approximately \$6,300 per acre, the cost could be as high as \$546,347,340.

Single Estimate (Proportional)

$(86,721.8 * .80) * \$2,700 \text{ per acre} = \$187,318.088$

$(86,721.8 * .20) * \$6,000 \text{ per acre} = \$104,066,160$

Grand Total = \$291,385,248

FY08 Progress

1,379.69 (7/07)

2,676.83 (8/07)

5,127.96 (9/07)

2,439.26 (10/07)

$240,614.88 - 11,623.64$

As of October 31, 2007 = 229,991.24 acres left to go

Mr. Dowling said that based on these projections there would be an approximate shortfall of 86,000 acres.

He noted that the cost range was about \$1,000 per acre. That would require about \$89 million. He said that not all of that would be accomplished through VLCF grants.

Mr. Dickinson asked if there was a comparable rundown on the numbers for the Chesapeake Bay 2000 Goal.

Mr. Dowling said that the shortfall is roughly 300,000 acres.

Update on Joint Legislative Subcommittee Study on PDRs and Open Space

Ms. Rovner said there was not a great deal of information to report at this time. The members of the subcommittee had supportive words for land conservation, however they have an almost impossible task of identifying funding. The subcommittee discussed a number of possibilities but there was no consensus on approach. There was no recommendation coming forth from the subcommittee.

Vehicle Registration Fee

Mr. Dowling reviewed a handout provided to members regarding proposed budget language to deal with the Vehicle Registration Fee. A copy of this handout is available from DCR.

Mr. Dickinson asked if this was being introduced.

Mr. Dowling said that this was budget language, not separate legislation.

Mr. Maroon said this was a part of the agency's budget submittal to the Governor.

VLCF Signage and Brochure

Mr. Dowling reviewed a handout of the proposed brochure text provided in member packets. A copy of the handout is available from DCR. The introductory paragraph read:

Land. They're not making any more of it. But more and more people are putting more and more demands upon it. In Virginia, our population has mushroomed. It grew more than 50 percent from 4.6 million in 1970 to about 7.1 million in 2000. Development of our lands has grown at an even faster rate. In fact, if we continue to develop land in the commonwealth at its current rate more Virginia lands will be developed in the next 40 years than in the previous 400.

Mr. Dowling said that the draft text was being provided to allow Board members to offer comments and suggestions.

Secretary Bryant asked if DCR had an official logo.

Ms. Richardson said that was in development. She distributed suggested sign designs.

Ms. Bourne said that she would prefer the staff to choose the design to expedite the process.

Ms. Richardson said that the DCR in house artist could share the images electronically.

Ms. Moorman said the design should be consistent with the logo.

Piedmont Environmental Council presentation – “The Case for Land Conservation in Virginia”

Heather Richards from the Piedmont Environmental Council gave a presentation entitled “The Case for Land Conservation in Virginia.” A copy of this presentation is available from DCR.

Highlights of the presentation were:

A Look at Land Conservation in Virginia

- Why conserve Virginia’s land and resources?
- What are we doing to conserve our land?
- Measuring our accomplishments
 - Are we conserving the right land?
 - Are we effectively leveraging state conservation funding?
- What can we accomplish in the future?

Because Virginia is our home.

Our land provides us with...

- A renewable source of nourishment
- A sustainable natural environment
- Jobs and a vibrant economy
- Areas to recreate
- Historic and scenic places to experience

In short, our land connects us to our past and sets the course for a prosperous future.

What are we doing to conserve land?

Landowners, private land trusts, and government are working together to conserve land important to Virginians.

These efforts exemplify the Commonwealth's role:

- Virginia Land Conservation Foundation (VLCF)
- Partnership with localities on Purchase of Development Rights programs
- Virginia Land Preservation Tax Credit (LPTC)

There are Costs of Inaction!

A commitment to conserving important land and resources is not free. But the cost pales in comparison to:

- The cost of complying with possible EPA regulatory mandates related to the Chesapeake Bay Agreement
- The cost of losing the basic inputs for Virginia's largest industries - agriculture and forestry
- The cost of losing the scenic and historic landscapes that bring tourists (and their dollars) to Virginia
- The cost of mitigating degraded watersheds, especially those that are critical to a safe and adequate supply of public drinking water

Governor's Forum on Land Conservation in Southern Virginia

Ms. Richardson reviewed the invitation to the Governor's Forum on Land Conservation in Southern Virginia. She said that landowners from Southwest Virginia and the New River Valley would be discussing their experiences.

Mr. Maroon said that any Board members interested in attending should confirm with staff.

Partner Agency Updates

Virginia Department of Agriculture and Consumer Services

Mr. Schmidt said that VDACS was in the process of administering the first round of grants from a total available of \$4.25 million. He said these would be out the second week in December. Fourteen localities were under consideration.

Virginia Department of Forestry

Mr. Farrell said that the Department hoped to complete the acquisition of Brumley Mountain by the end of the year.

He said that DOF has hired two new regional land conservation foresters.

Department of Game and Inland Fisheries

Mr. Adams noted the following:

Fray Tract

- The WFV conveyed the fee simple Fray Tract of ±550 acres to the Board of Game and Inland Fisheries. The Fray Tract will be incorporated in the current 10,236 acres comprising the Rapidan Wildlife Management Area. This was made possible from a VLCF \$150,000 grant.

Additional Projects

- TNC is donating to the Board of Game and Inland Fisheries land in York County consisting of 655 acres of forest and wetlands; formerly BP York property.
- Merrimac Farm, Prince William County, 302 acres; partners - Prince William Conservation Alliance and US Marine Corps (made possible with a grant from VLCF).
- Bullpasture River, Highland County. ~178 acres; partners - TNC (made possible through a grant from VLCF).
- Southampton County, 173 acres forested wetland; partner - TNC.
- Conservation Easement, King and Queen County, ~314 acres.
- Boating Access Facility, 4,333 acres, King George County
- Rockbridge/Botetourt County, ~4,700 acres
- Sussex County, ~1800 acres; - partner TNC
- Bath County, ~23 acres
- Tazewell County, ~101 acres
- Accomack County, 25 acres of tidal wetlands
- James City County, 40 acres
- Craig County, ~490 acres
- Wythe County, ~134 acres
- Frederick County, ~45 acres
- Halifax County, ~432 acres
- Halifax County, ~249 acres
- Sussex County, ~165 acres

Department of Historic Resources

Ms. Tune said that to date the Department of Historic Resources has acquired 16 easements. The hope is to reach 25 by the end of the calendar year.

Ms. Tune noted that DHR is the primary holder of battlefield easements.

Ms. Tune said that DHR would be hiring a technical archeology advisor and one archeologist.

Virginia Outdoors Foundation

Mr. Lee said that 2006 was a banner year for the Virginia Outdoors Foundation. The VOF Board approved 337 easements, totaling 76,000 acres in 2006.

For 2007, as of the last Board meeting the VOF has approved 287 easements, totaling 74,000 acres.

Mr. Lee said that VOF has put an emphasis on larger properties.

Public Comment

There was no public comment.

Adjourn

Being no further business, the meeting was adjourned.

Respectfully submitted,

L. Preston Bryant, Jr.
Chair

Joseph H. Maroon
Executive Secretary